

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

RECEIVED
FEDERAL ELECTION COMMISSION
JUN 29 A 9 32

)
)
)
)

CASE CLOSURES UNDER
ENFORCEMENT PRIORITY

GENERAL COUNSEL'S REPORT

SENSITIVE**I. INTRODUCTION**

The cases listed below have been evaluated under the Enforcement Priority System ("EPS") and identified as either low priority, stale, or the statute of limitations has expired. This report is submitted in order to recommend that the Commission no longer pursue these cases for the reasons noted below.

II. CASES RECOMMENDED FOR CLOSURE**A. Cases Not Warranting Further Action Relative to Other Cases Pending Before the Commission**

EPS was created to identify pending cases that, due to the length of their pendency in inactive status, or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditures of resources. Central Enforcement Docket ("CED") evaluates each incoming matter using Commission-approved criteria that result in a numerical rating for each case.

Closing these cases permits the Commission to focus its limited resources on more important cases presently pending in the Enforcement docket. Based upon this review, we have identified cases that do not warrant further action relative to other pending matters. We recommend that all be closed. The attachments to this report contain a factual summary of each case recommended for closure, the case EPS rating, and the factors leading to the assignment of a low priority.

¹ These cases are:

MUR 5196 (General Media Consultants).

22.04.405.4711

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources primarily because the evidence of such activity becomes more difficult to develop as it ages. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community. EPS provides us with the means to identify those cases that, remain unassigned for a significant period due to a lack of staff resources for an effective investigation. The utility of commencing an investigation declines as these types of cases age, until they reach a point when activation of such cases would not be an efficient use of the Commission's resources.

We have identified cases that have remained on the Central Enforcement Docket for a sufficient period of time to render them stale. We recommend that cases be closed³

III. CASES RECOMMENDED FOR CLOSURE FOLLOWING PERMANENT TRANSFER TO ADR

Additionally, the ADR Office has bifurcated the respondents in ADR 027 (formerly MUR 5062) by reaching settlements

³ These cases are: P-MUR 395 (*College Republican National Committee*); MUR 4948 (*Republican Leadership Council*); and MUR 5032 (*Million Mom March*).

22.04.405.4712

with fourteen respondents and returning the remaining eleven respondents with whom the ADR Office could not reach a settlement or receive a buy-in into the ADR process. This Office recommends closing the remaining eleven respondents in ADR 027, including Westside Chemical Company.

22-04-405-4713

V. RECOMMENDATIONS

OGC recommends that the Commission exercise its prosecutorial discretion and close the cases listed below effective two weeks from the day that the Commission votes on the recommendations. Closing these cases as of this date will allow CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

1. Decline to open a MUR, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letter in:

P-MUR 395

2. Take no action, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters in:

MUR 4948

MUR 5032

MUR 5196

22.04.405.4714

3. Take no action, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters in ADR 027 (formerly MUR 5062) with respect to the following respondents:

Verdegaal Brothers, Inc.; Overland Stock Yards; E & B Landscape and Garden Supplies, Inc.; Westside Chemical Company; Quick Signs, Inc.; Gregory Schneider; Western Building Properties Association; Orosi Swap Meet; Schaller Bail Bonds; Triple B Farms; and Arvel Legal Systems.

10/26/01

Date



Lawrence H. Norton
General Counsel

22-04-405-4715

MUR 5032
MILLION MOM MARCH

Complainant, William A. Levinson, alleges that the Million Mom March Foundation ("MMF") solicited and accepted corporate contributions in order to influence Federal elections. Specifically, he points to MMF's corporate sponsored website, which has no disclaimer but does endorse candidates who support gun control and denounce candidates who oppose gun control. The complainant also alleges that there was express advocacy of particular candidates at the corporate sponsored Million Mom March event, where speeches were made urging the audience to vote for candidates who support gun control legislation.

Respondent Elizabeth Wright responded by denying the allegations. She stated that any remarks made by her at the Million Mom March were fully protected by the First Amendment and were consistent with the federal law as "issue advocacy."

Respondents Rabbi Yoffie, Bobby Rush and Representative Carolyn McCarthy answered by denying they violated the FECA. Representatives Rush and McCarthy indicated that they did not advocate their own re-election or the election or defeat of a particular candidate.

Respondent Kathleen Kennedy Townsend replied that the allegations did not set forth a violation of FECA. She noted that she was not a candidate for federal office and did not accept corporate contributions.

MMF responded by denying that the activities it conducted at the Million Mom March event and through its website constituted violations of the FECA. Specifically, both the website and speeches made at the MMF event contained no express advocacy and made no attempt to influence a federal election.

22-04-405-4716